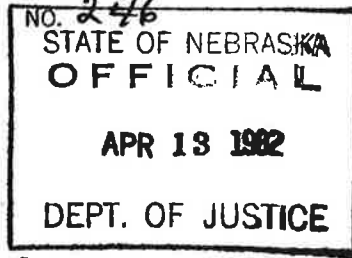


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

April 12, 1982



PAUL L. DOUGLAS
Attorney General
GERALD S. VITAMVAS
Deputy Attorney General
JOHN R. THOMPSON
Deputy Attorney General

Senator William E. Nichol
Member of the Legislature
1107 State Capitol
Lincoln, Nebraska 68509

Dear Senator Nichol:

You have inquired whether the State of Nebraska, through its Legislature, may constitutionally exempt persons under the age of 18 years from the imposition of a sentence of death.

At the present time, we are aware of no constitutional impediment to a state limiting by legislation the class of persons upon which a sentence of death may be imposed. This opinion is limited to the instant question where the limitation is based upon a classification of persons -- juveniles -- which is already recognized by our statutes and uniformly granted unique treatment under the criminal laws of this country. See, Neb.Rev.Stat. §§43-201.01 et seq. (Reissue 1978); Neb.Rev.Stat. §43-247, §43-261 and §43-276 (1981 Supp.), operative July 1, 1982.

You have also inquired regarding the effect of the proposed amendment to LB 787, removing persons convicted of murder in the first degree, who are under eighteen years of age, from exposure to a sentence of death, would have upon those presently sentenced to death. Passage of this amendment would only effect a sentence of death which had not become final. See Opinion No. 218, March 15, 1982.

Very truly yours,

PAUL L. DOUGLAS
Attorney General


Gerald S. Vitamvas
Deputy Attorney General

GSV:jmf

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cc: Patrick O'Donnell
Clerk of the Legislature

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